

April 27, 2010

Public Hearing: Zoning Case Z10-0001
Applicant(s): City of Frisco

DESCRIPTION:

A request to amend Planned Development-33 (Section 2.16 of Ordinance No. 89-09-01) pertaining to the removal of the “Public Service” provision. The property contains 76.1± acres and is generally located south of Lebanon Road, on the east and west side of Legacy Drive. Zoned Planned Development-33-Business Center with a Specific Use Permit (S-65) for a Private Club and a Specific Use Permit (S-150) for a Day Care Center. Neighborhood #31, 32 and 33. JE

HISTORY:

Ordinance No. 89-09-01 – City Council adopted the Ordinance on September 5, 1989, rezoning the property from Shopping Center, Local Retail, Residential-4 and Residential-3 to Planned Development-33-Business Center.

Ordinance No. 08-07-59 – City Council adopted the Ordinance on July 1, 2008 amending the Planned Development standards concerning the requirement preventing the construction of a building over the County line.

A call for public hearing was issued by the City Council on April 6, 2010.

CASE OVERVIEW:

The surrounding land uses are as follows:

Direction	Land Use	Zoning	Comprehensive Plan
North	Commercial and Residential	Planned Development-101-Commercial-1 and Planned Development 106-Single Family	Retail and Residential
East	Vacant	Planned Development-30-Business Center	Mixed-Use Non-Residential

South	Commercial and Residential	Planned Development-32-with a Specific Use Permit (S-16) for a Private Club	Residential
West	Commercial and Residential	Planned Development-74-Single Family-4-Patio Home, Retail, and Patio Home	Residential

The request is to amend Planned Development-33 to remove the “Public Service” provision.

On February 3, 2009, City Council denied the applicant’s appeal of the preliminary site plan (PSP08-0009 Victory Plaza) denied by the Planning & Zoning Commission. The preliminary site plan showed a car wash, convenience store with fuel pumps and a retail store (see exhibit). The preliminary site plan was denied due to noncompliance with the Comprehensive Zoning Ordinance for:

1. Adjacency of gas pumps and car wash to residential zoning.
2. Lack of required perimeter landscape buffer and tree plantings.
3. Lack of required open space.

Since the denial, this case has gone to mediation. Part of the settlement involves removing the public use provision (Section 2.16) from the Planned Development ordinance as stated below:

Public Service: Unless otherwise approved by the Frisco city Council, a tract of land, approximately 2.2 acres in size, located along County Road No. 1 with a minimum frontage of 190 feet on County Road No. 1, shall be reserved for use as a “public service” tract. This tract shall be used for municipal uses as the Frisco City council, in its sole discretion, may deem appropriate.

It is imperative that the Planned Development ordinance be amended to remove this provision by May 27, 2010 as this is the date when both parties appear before the court.

RECOMMENDATION:

Staff recommends approval of the request, subject to the following conditions. Deletions are denoted in ~~striketrough~~:

EXHIBIT “C”

PLANNED DEVELOPMENT STANDARDS

1.0 PLANNED DEVELOPMENT – BUSINESS CENTER

DESCRIPTION AND USES:

1.1 General Description: This planned Development District provides the ability to encourage and to accommodate the development of office and corporate facilities, facilities for scientific and technological businesses, retail and commercial service centers within a current growth corridor located along Legacy Drive, east of the St. Louis, San Francisco and Texas Railroad and west of the proposed extension of the Dallas North Tollway.

1.2 Permitted Use: The following uses shall be permitted in the Business Center Areas.

- Air Conditioning Sales and Services
- Antique Shops – Indoor Display Only
- Apparel Distribution Centers
- Appliance Stores
- Artist Materials and Supplies
- Auto Laundries/Car Wash Facilities
- Auto Parts Sales – No Outdoor Storage/Display
- Automobile Painting Facilities
- Automobile Parking Lots and Parking Garages
- Automobile Repairs – Major and Minor
- Automobile Sales, Service and Leasing – New and Used
- Baby Shops
- Bakery and Confectionery Shops
- Bakery Plants

- Banks, Savings and Loan and Credit Unions
- Banks, Savings and Loan and Credit Unions – With Drive-Thru Services
- Barber/Beauty Shops
- Beverage Stores
- Billboard and Advertising Signs – Permitted in compliance with the City's Sign Ordinance, as it presently exists or may be amended.
- Boat Sales and Services
- Book Binderies
- Book and Stationery Stores
- Bottling Works – No Direct Manufacturing of Glass
- Bus Stations/Terminals
- Business Services
- Cafeterias
- Camera Shops
- Candy and Cake Shops
- Catering Establishments
- Churches/Rectories
- Cleaning, Dyeing, Pressing, Pick-up and Collection Agencies
- Clothing and Apparel Stores
- Clothing, Footwear and Textile Centers
- Commercial Amusement Enterprises – Indoor and Outdoor (Excluding Drive-In Theaters)
- Computer Assembly and Distribution
- Computer Centers – Including, but not limited to : Texas Instruments, EDS, Intecom, IBM, Mr. Micro, Moore Business Products, Computerland, Compaq, Fujitsu, Hewlett Packard, NEC, ComputerCraft, MicroAge, etc.
- Computer Sales and Repairs
- Computer Training Facilities
- Concrete Batching Plants – Temporary and Incidental to On-Site Construction
- Convenience Stores
- Convenience Stores – With Gas Service
- Convention Facilities
- Corporate and Professional Office Facilities and Headquarters
- Curio and Gift Shops
- Dairy Products and Ice Cream Stores
- Day Care Centers for Children

- Delicatessens
- Department Stores
- Dinner Theatres
- Distribution Centers and Showrooms
- Drapery Shops
- Dress Shops
- Drug Stores/Pharmacies
- Dry Good Stores
- Duplicating Centers, Mailing Services, Etc.
- Electronic Product Centers – Emissions of hazardous or toxic chemicals shall be prohibited.
- Electronic Security Facilities
- Engine Repair and Service Facilities – Under Roof Only
- Feed Stores
- Fence Sales – No Outdoor Storage Unless Screened
- Financial Institutions
- Fitness and Health Centers
- Florist and Garden Shops
- Food Product Centers
- Fraternal Organizations, Lodges and Civic Clubs
- Frozen Food Lockers – No Slaughter Houses, Packing or Processing Plants
- Funeral Homes and Mortuaries
- Furniture and Upholstery Centers – Including Repairs
- Furniture, Home Furnishings and Equipment Showrooms and Sales
- Furniture Stores
- General Commercial Plants – Including, but not limited to : Laundry and cleaning plants, printing and publishing plants, paint products, newspaper and magazine products, transportation products, apparel products, furniture products, cosmetics products, textile products, photographic products, plastic products, optical products, paper products, tobacco products, etc.
- General Merchandise Stores
- Governmental and Utility Agencies, Offices, Facilities and Service Yards – No Outdoor Storage Unless Screened
- Greenhouse and Nursery Facilities – Sales Permitted
- Grocery Stores and Supermarkets

- Guard and Patrol Services
- Hardware and Building Materials Stores – No Outdoor Storage Unless Screened
- Health Product Fabrication Centers
- Hospitals and Emergency Centers
- Hotels and Motels
- Household Appliance Services and Repairs
- Instrument and Meter Repair Facilities
- Interior Decorating Stores
- Jewelry Stores
- Job Printing Centers
- Key Shops/Locksmiths
- Laboratories – Testing and Experimentation – Emissions of hazardous or toxic chemicals shall be prohibited.
- Laundromats
- Laundry and Dry Cleaning Establishments
- Laundry and Dry Cleaning Plants
- Leather Goods Shops
- Machinery Sales and Services – New and Used (Excluding Junk Yards) – Service and repair facilities to be under roof and enclosed.
- Mass Commuter Stations
- Meat Markets – No Slaughter Houses or Packing Plants
- Medical and Health Care Facilities/Clinics
- Medical Equipment Manufacturing and Showrooms
- Medical Offices
- Messenger/Courier and Telegraph Services
- Mini-Warehouses – Incidental to Permitted Uses
- Monument Sales
- Motorcycle Sales and Services
- Multi-Family Units – As outlined in Section 3.0 et. Seq. of this exhibit, Exhibit “C”.
- Municipal Buildings and Facilities
- Museums, Libraries, Art Schools and Art Galleries
- Musical Instrument Sales
- Newspaper and Magazine Sales
- Newspaper Printing Centers
- Novelty/Notion Stores

- Offices – Professional, Administrative and General Offices – including, but not limited to, doctors, optometrists, psychiatrists, attorneys, architects, engineers, planners, travel agents, advertising, insurance and real estate offices.
- Office Showroom Facilities – Sales Permitted
- Office Businesses
- Office Equipment Repairs and Maintenance
- Office Supplies and Sales
- Optical Stores – Sales and Services
- Paint Stores
- Paper Product Centers
- Parks, Playgrounds, Recreational Facilities and Community Centers
- Pest Control/Exterminating Shops – Emissions of hazardous or toxic chemicals shall be prohibited.
- Pet Grooming and Supplies
- Pet Shops
- Photographic Services
- Plastic Products Centers – Emissions of hazardous or toxic chemicals shall be prohibited.
- Play Equipment – Sales and Display
- Plumbing Shops – No outside storage unless screened.
- Post Office Facilities
- Prefabricated Home Sales – No Mobile Homes
- Printing and Duplicating Centers
- Private Club Facilities – In accordance with other applicable City Ordinances as they presently exist or may be amended.
- Radio and Television Microwave Antennae/Towers – Incidental to primary use and not to exceed a height of one hundred forty (140) feet unless mounted on a roof top exceeding a height of one hundred forty (140) feet in which case the antenna/tower shall not exceed a height of thirty (30) feet above the top of the building structure.
- Radio and Television Sales and Services
- Radio and Television Studios and Broadcasting Facilities
- Recreation Centers – Public and Private
- Restaurants
- Restaurants – With Drive-In/Drive-Thru Service
- Retail Sales

- Retail Shops and Stores
- Schools – Public or State Accredited
- Scientific/Research Facilities – Emissions of hazardous or toxic chemicals shall be prohibited.
- Securities and Commodities Offices – Including, but not limited to brokers, dealers, underwriters, exchange offices and similar offices.
- Service Stations – Full Service (Including Bays)
- Service Stations – Self Service
- Sewing Machine Sales and Services
- Shoe and Boot Sales and Repair Stores
- Shopping Centers/Malls
- Sign Sales – Sign installation to be in compliance with the City's Sign Ordinance, as it presently exists or may be amended.
- Small Engine Repairs – Under Roof and Enclosed
- Specialty Shops and Boutiques
- Sporting Good Sales
- Studios – Art, Photography, Music, Dance, Gymnastics, Health, etc.
- Tailor Shops
- Telecommunication Centers and Sales
- Theaters – Indoor
- Theatrical Centers
- Tire Dealers – No Outdoor Storage
- Tool and Equipment Rental Stores – No Outdoor Storage Unless Screened
- Toy Stores
- Trade and Commercial Schools
- Trailer Sales/Rentals – Excluding Mobile Homes
- Travel Bureaus
- Trophies and Awards Shops
- Truck Sales and Leasing
- Utility Distribution Systems and Facilities
- Variety Stores
- Veterinarian Clinics and Kennels – Limited to Small Animals
- Warehousing Facilities – In Conjunction With Permitted Business Uses
- Watch Making Shops
- Wholesale Office and Sample Rooms
- Accessory buildings and uses customarily incident to the permitted uses.

- Temporary buildings and uses incidental to construction work on the premises to be removed upon completion or abandonment of construction work.
- Uses similar to the above mentioned permitted uses, provided the Frisco City Council approves said uses prior to the issuance of a building permit.

2.0 PLANNED DEVELOPMENT – BUSINESS CENTER

DEVELOPMENT REQUIREMENTS:

- 2.1 General Description: The following Development Requirements shall govern all development within the Planned Development District save and except multi-family development which shall be governed by standards as set forth in Section 3.0 of this exhibit, Exhibit “C”.
- 2.2 Density: The permitted floor area of all buildings located within the Planned Development District shall be unlimited provided that all sections of the Planned Development Ordinance are fulfilled.
- 2.3 Building Heights: The permitted height of all buildings within Tract 1 of the Planned Development District shall be limited to maximum allowed building heights of twelve (12) stories or one hundred forty-four (144) feet, whichever is less; ten (10) stories or one hundred twenty (120) feet, whichever is less; eight (8) stories or ninety-six (96) feet, whichever is less; four (4) stories or forty-eight (48) feet, whichever is less; and two (2) stories or thirty-two (32) feet, whichever is less. Designated areas for the aforementioned maximum allowed building heights are indicated on Exhibit “B”, attached hereto.

The permitted height of all buildings located within Tract 2 of the Planned Development District shall be limited to maximum allowed building heights of two (2) stories or thirty-two (32) feet, whichever is less.

Roofing structures, penthouse structures, attics, lofts, chimneys, antennas and other projections not used for human occupancy, as approved by the City, may extend above the aforementioned building height limitations.

- 2.4 Lot Area: No minimum requirement.
- 2.5 Lot Width: No minimum requirement.
- 2.6 Lot Depth: No minimum requirement.

- 2.7 Lot Coverage: Within Tract 1, no more than sixty (60) percent of the total lot area shall be covered by the combined area of the main buildings and accessory buildings. Within Tract 2, no more than thirty-five (35) percent of the total lot area shall be covered by the combined are of the main buildings and accessory buildings.

Parking structures/buildings and surface parking facilities shall be excluded from lot coverage computations.

- 2.8 Front Yard: There shall be a front yard having a depth of not less than twenty-five (25) feet. Front yard setbacks are required on both streets for corner lots.

- 2.9 Side Yard: No side yard is required unless vehicular access is required in which case a side yard having a depth of not less than twelve (12) feet shall be provided.

A twenty (20) foot side yard shall be provided where fire lane access is required and provision for a vehicular access/fire lane easement is not available on the adjoining property.

- 2.10 Rear Yard: No rear yard is required unless vehicular access is required in which case a rear yard having a depth of not less than twelve (12) feet shall be provided.

A twenty (20) foot rear yard shall be provided where fire lane access is required and provision for a vehicular access/fire lane easement is not available on the adjoining property.

- 2.11 Required Parking: Parking shall be provided according to Article 9-100.6, as established in the Comprehensive Zoning Ordinance for the City of Frisco, Ordinance No. 84-02-03, as it presently exists or may be amended. Parking shall be permitted within all required yard areas.

- 2.12 Off Street Parking and Loading Conditions: Off street parking and loading requirements shall conform to Article 9-100.6 of the City of Frisco's Ordinance No. 84-02-03, as it presently exists or may be amended. Off street parking and loading shall be permitted within all required yard areas.

- 2.13 Building Materials: All main buildings shall have an exterior finish of glass, stone, stucco, brick, tile, concrete, exterior wood or similar materials or any combination thereof. The use of wood as a primary, exterior building material shall be limited to a maximum of twenty-five (25) percent of the total exterior wall surfaces.

- 2.14 Open Space and Yard Areas: Open space area required for an existing building or structure shall not be counted as open space area for any other building or structure.

Open eaves, window sills and belt courses may project into a front, side or rear yard a distance not to exceed five (5) feet. Fences, walls and hedges may be erected in any required yard space or along the edge of any yard space or project perimeter. All walls or fences must be approved by the Frisco Planning and Zoning Commission and City Council or their designee prior to construction.

- 2.15 Open Space Requirement: A minimum of seven (7) percent of the net lot area, for Business Center areas to be developed for any use except multi-family, shall be developed and maintained as landscaped open space. A minimum of fifteen (15) percent of net lot area, for Business Center areas to be developed entirely for multi-family uses, shall be developed and maintained as landscaped open space. Landscaped open space may include areas used for facilities such as walks, plazas, courts, recreational amenities, water features and other similar uses not specifically used for vehicular access and parking.

Landscape plans for proposed development areas shall be submitted by the applicant to the Frisco Planning and Zoning Commission and City Council or their designee and approved in accordance with applicable law at the time of Site Plan Review and Approval.

- ~~2.16 Public Service: Unless otherwise approved by the Frisco City Council, a tract of land, approximately 2.2 acres in size, located along County Road No. 1 with a minimum frontage of 190 feet on County Road No. 1, shall be reserved for use as a "public service" tract. This tract shall be used for municipal uses as the Frisco City Council, in its sole discretion, may deem appropriate.~~

- 2.17 Primary Building Setback: No primary building shall be constructed within sixty (60) feet of that portion of the southern boundary for Tract 1 adjacent to the property currently zoned for patio home uses, identified as Ordinance No. 85-01-02. This sixty (60) foot "Building Setback Line" is indicated on Exhibit "B" attached hereto. Parking shall be permitted within this sixty (60) foot setback area.

- 2.18 Screening Fence: Unless otherwise approved by the Frisco City Council or their designee, a six (6) foot screening fence shall be provided along that portion of the southern boundary for Tract 1, adjacent to the property currently zoned for patio home uses, identified on Exhibit "B" as Ordinance No. 99-08-05. The six

(6) foot screening fence shall be provided as a means of buffering between areas developed for single family residential uses and those areas otherwise approved by the Frisco City Council or their designee, the six (6) foot screening fence shall commence within 90 days of plat approval on a property directly adjacent to the aforementioned southern boundary for Tract 1 and said screening fence shall be required for specific commercial or retail property being developed at that particular time. The above referenced six (6) foot screening fence shall be constructed of exterior wood, stone, stucco, brick, tile, concrete or similar materials or any combination thereof. No chain link or similar fence shall be allowed. Prior to construction, the screening fence shall be approved by the City Manager or his designee.

3.0 PLANNED DEVELOPMENT – BUSINESS CENTER

MULTI-FAMILY DEVELOPMENT:

- 3.1 Multi-Family units: Multi-family units shall be permitted within Tract 1 of the Planned development District. A maximum of six hundred (600) multi-family dwelling units shall be allowed. The maximum allowed density for multi-family dwelling units is 18.0 units per gross acre of land. Requirements for multi-family development shall be governed by standards as set forth herein for all properties within the Planned Development District except as described below in Sections 3.2 through 3.5 which shall supersede any other standards set forth herein. Multi-family structures shall be built in accordance with building code standards established for the City of Frisco as applicable at the time of construction.
- 3.2 Dwelling Unit Size: The minimum allowed floor area for flats (one floor units) shall be six hundred fifty (650) square feet and the minimum allowed floor area for studios (two floor units) shall be seven hundred fifty (750) square feet, exclusive of garages, carports, breezeways and porticos.
- 3.3 Building Height: The permitted height of all multi-family structures shall not exceed three (3) stories or forty-two (42) feet, whichever is less. Roofing structures, penthouse structures, attics, lofts, chimneys, antennas and other projections not used for human occupancy, approved by the City, may extend above this height limit.
- 3.4 Covered Parking: Parking shall meet the requirements as outlined in Section 2.11 of this exhibit which shall include lighted, covered parking spaces provided

in a ratio of one to one, one covered parking space provided for each multi-family dwelling unit developed. This provision is not intended to dictate that every unit shall have a lighted, covered parking space, but rather to ensure that the total number of lighted, covered parking spaces equals the total number of units developed.

- 3.5 Building Materials: All multi-family structures shall have an exterior finish of glass, stone, stucco, brick, tile, concrete, exterior wood or similar materials or any combination thereof. The use of wood as a primary, exterior building material shall be limited to a maximum of twenty-five (25) percent of the total exterior wall surfaces.

3.0 PLANNED DEVELOPMENT

GENERAL CONDITIONS:

- 4.1 Conformance to All Applicable Articles of the Frisco Zoning Ordinance: Except as amended herein, this Planned Development shall conform to any and all applicable articles and section of the Frisco Zoning Ordinance, Ordinance No. 84-02-03, as it presently exists or may be amended
- 4.2 Conceptual Development Plan/Zoning Exhibit: A Conceptual Development Plan/Zoning Exhibit is attached as Exhibit "B" and made a part of these Planned Development Conditions. This Conceptual Development Plan/Zoning Exhibit indicates the following:
- a. Overall boundary and boundary description of the Planned Development
 - b. Land use for the Planned Development District.
 - c. Density for the Planned Development District
 - d. Vicinity map, north arrow and graphic scale with the Conceptual Development Plan.
 - e. The width of all major streets and thoroughfares.
 - f. Indication of reservation of right-of-way for the future extension of Legacy Drive of not less than one hundred (100) feet.
 - g. Indication of reservation of right-of-way for the future east/west thoroughfare, presently referred to as County Road No. 1, of not less than fifty (50) feet from the existing center line of the said roadway.

- h. Indication of reservation of right-of-way for the future east/west thoroughfare, presently referred to as Acker Road, of not less than fifty (50) feet.
- i. ~~A reservation of an approximate 2.2 acre tract as referenced in Section 2.16 of this exhibit.~~

- 4.3 Preliminary Plat: A preliminary plat for each phase of development must be submitted to the Frisco Planning & Zoning Commission and City Council; and must be approved in accordance with applicable law prior to completion of the final plat. A final plat with construction plans, as required by the Frisco Subdivision Ordinance as it presently exists or may be amended, must be submitted to the Frisco Planning & Zoning Commission and City council; and must be approved in accordance with applicable law prior to issuance of a building permit for development within that phase

All preliminary plats must comply substantially with the Conceptual Development Plan/Zoning Exhibit attached hereto and comply specifically with these conditions. A preliminary plat must contain the Planned Development information required in the Frisco Zoning Ordinance as it presently exists or may be amended and not already shown on the Conceptual Development Plan/Zoning Exhibit. The location of streets or roadways shall be determined at the time of platting.

- 4.4 Site Plan Review: No building permit shall be issued for the construction of buildings until a detailed site plan of that particular development area has been submitted to the Frisco Planning & Zoning Commission and City Council and approved in accordance with applicable law. Separate detailed site plans may be submitted for individual development areas, and construction within a development area may proceed in phases after approval of the detailed site plan for the applicable development area.
- 4.5 Development Schedule: This Ordinance shall be accompanied by a Development Schedule, indicating the approximate date on which construction is expected to begin and the approximate time frame to completion. The Development Schedule, if approved by the Frisco City Council, shall be generally adhered to by the Owner, Developer, and their successors in interest; unless amended by approval of the Frisco City Council.
- 4.6 Annual Development Report: Annually, where a Development Schedule has been submitted, the owner(s) and/or developer(s) shall report to the Frisco City

Council the actual development accomplished in the various Planned Development areas as compared to the Development Schedule

- 4.7 Compliance with the Conditions of Article 8-122 of the Frisco Zoning Ordinance: Except as amended herein, the procedures and conditions required of the Planned Development shall comply with Article 8-122 of the Frisco Zoning Ordinance as it presently exists or may be amended.
- 4.8 General Compliance: Except as amended by these conditions, development of property within this Planned Development must comply with the requirements of all ordinances, rules and regulations of the City of Frisco as they presently exist or may be amended.
- a. All paved areas, permanent drives, streets (dedicated or private) and drainage structures (if any) must be constructed in accordance with standard City of Frisco specifications as they presently exist or may be amended.
 - b. The Building Inspector shall not issue a building permit or a Certificate of Occupancy for a use in a phase of this Planned Development District until there has been full compliance with these conditions, the construction codes and all other rules and regulation of the City of Frisco as they presently exist or may be amended and are applicable to that phase.
- 4.9 Corner View Easements: A view easement shall be maintained at the intersection of streets and/or alleys. This easement shall be kept clear of all structures o other visual obstructions over twenty-four (24) inches in height. This easement is defined by a line connecting two points on perpendicular or perpendicularly adjacent lines, said points being located twenty (20) feet from the intersecting lot corner.
- 4.10 Maintenance of Facilities: The Owner(s) shall establish, with each detailed plan submittal, property owner's association, membership association or other designation that will be responsible for the improvement and maintenance of all common areas and/or common facilities contained within the area of the detailed plan.

Development Schedule

It is anticipated that development will begin within 5 to 10 years after approval and signing of the zoning ordinance. During this time period, prior to the initial stages of development, it is foreseen that plans and studies will be prepared for development and marketing of the property.

Progress of development improvements will primarily depend on time frames established for construction of thoroughfares, utilities and market trends/demands for the area.

It is anticipated that development, excluding total construction of all structures, will be completed within 20 to 25 years of zoning approval.